

previously approved schedule to digital versions. If changes in the approved schedule are required, follow §1225.26.

(c) *Scanned images of temporary records, including temporary program records.* The agency must apply the previously approved schedule. If changes in the approved schedule are required, follow §1225.26.

(d) *Other temporary records maintained in an electronic format other than scanned images.*

(1) For temporary records that are covered by an item in a General Records Schedule (other than those General Records Schedule items that exclude electronic master files and databases) or an agency-specific schedule that pertains to administrative housekeeping activities, apply the previously approved schedule. If the electronic records consist of information drawn from multiple hard copy series, apply the previously approved schedule item with the longest retention period.

(2) For temporary program records covered by a NARA-approved media neutral schedule item (*i.e.*, the item appears on a schedule submitted to NARA for approval before December 17, 2007, that is explicitly stated to be media neutral, or it appears on a schedule submitted to NARA for approval on or after December 17, 2007, that is not explicitly limited to a specific record-keeping medium), apply the previously approved schedule.

§1225.26 How do agencies change a disposition authority?

Agencies must submit an SF 115 to permanently change the approved disposition of records. Disposition authorities are automatically superseded by approval of a later SF 115 for the same records unless the later SF 115 specifies an effective date. As provided in §1226.20(c) of this subchapter, agencies are authorized to retain records eligible for destruction until the new schedule is approved.

(a) SF 115s that revise previously approved disposition authorities must cite all of the following, if applicable:

(1) The SF 115 and item numbers to be superseded;

(2) The General Records Schedules and item numbers that cover the records, if any; and

(3) The current published records disposition manual and item numbers; or the General Records Schedules and item numbers that cover the records.

(b) Agencies must submit with the SF 115 an explanation and justification for the change.

(c) For temporary retention of records beyond their normal retention period, see §1226.18 of this subchapter.

(d) Agencies must secure NARA approval of a change in the period of time that permanent records will remain in agency legal custody prior to transfer to the National Archives of the United States. To request approval, agencies send written requests to the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1738. NARA approval is documented as an annotation to the schedule item. A new SF 115 is not required to extend the time period of agency legal custody.

PART 1226—IMPLEMENTING DISPOSITION

Sec.

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AUTHORITY: 44 U.S.C. 2111, 2904, 3102, and 3301.

SOURCE: 74 FR 51014, Oct. 2, 2009, unless otherwise noted.

§ 1226.1

§ 1226.1 What are the general authorities for this part?

The statutory authorities are 44 U.S.C. 2107, 2111, 2904, 3102, 3301 and 3302.

§ 1226.2 What definitions apply to this part?

See §1220.18 of this subchapter for definitions of terms used throughout Subchapter B, including part 1226.

§ 1226.3 What standards are used as guidance for this part?

These regulations conform with guidance in ISO 15489-1:2001, Information and documentation—Records management, sections 8.3.7 (Retention and disposition), 8.5 (Discontinuing records systems), 9.2 (Determining how long to retain records), and 9.9 (Implementing disposition).

§ 1226.10 Must agencies apply approved schedules to their records?

The application of approved schedules is mandatory except as provided in §§1226.16 and 1226.18. Federal records must be retained as specified in the schedule to conduct Government business, protect rights, avoid waste, and preserve permanent records for transfer to the National Archives of the United States.

§ 1226.12 How do agencies disseminate approved schedules?

(a) Agencies must issue disposition authorities through their internal directives system within six months of approval of the SF 115 or GRS to ensure proper distribution and application of the schedule. The directive must cite the legal authority (GRS or SF 115 and item numbers) for each schedule item covering records.

(b) Agencies must send, via link or file, an electronic copy of each published agency schedule, directive, and other policy issuance relating to records disposition to NARA at RM.Communications@nara.gov when the directive, manual, or policy issuance is posted or distributed.

(c) The submission must include the name, title, agency, address, and phone number of the submitter. If the comprehensive records schedule or other policy issuance is posted on a publicly

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available Web site, the agency must provide the full Internet address (URL).

§ 1226.14 What are the limitations in applying approved records schedules?

Agencies must apply the approved records disposition schedules to their agency's records as follows

(a) Records described by items marked “disposition not approved” or “withdrawn” may not be destroyed until a specific disposition has been approved by NARA.

(b) Disposition authorities for items on approved SF 115s that specify an organizational component of the department or independent agency as the creator or custodian of the records may be applied to the same records after internal reorganization, but only if the nature, content, and functional importance of the records remain the same. Authority approved for items described in a functional format may be applied to any organizational component within the department or independent agency that is responsible for the relevant function.

(c) Disposition authorities approved for one department or independent agency may not be applied to records of another department or agency. Departments or agencies that acquire records from another department or agency, and/or continue creating the same series of records previously created by another department or agency through interagency reorganization must promptly submit an SF 115 to NARA for disposition authorization. Until the new records schedule is approved, the records are unscheduled. See §1225.22 of this subchapter.

(d) Unless otherwise specified, newly approved disposition authorities apply retroactively to all existing records as described in the schedule.

(e) When required by court order (*i.e.*, order for expungement or destruction), an agency may destroy temporary records before their NARA-authorized disposition date. In accordance with §1230.14 of this subchapter, an agency must notify the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001,

phone number (301) 837-1738, when permanent or unscheduled records are to be destroyed in response to a court order. If the records have significant historical value, NARA will promptly advise the agency of any concerns over their destruction.

§ 1226.16 Does NARA ever withdraw disposition authority?

(a) When required to ensure the preservation of Government records, or when required by an emergency, or to maintain efficiency of Government operations, NARA will withdraw disposal authorizations in approved schedules (44 U.S.C. 2909). This withdrawal may apply to particular items on agency schedules or may apply to all existing authorizations for a specified type of record in any or all agencies.

(b) To both impose and rescind the withdrawal, NARA will notify the affected agency or agencies in writing, either by letter or NARA bulletin.

§ 1226.18 When may agencies temporarily extend retention periods?

(a) Agencies may temporarily retain records approved for destruction beyond their NARA-approved retention period if special circumstances alter the normal administrative, legal, or fiscal value of the records.

(1) Agencies must not retain records whose disposal after a specified period is required by statute, unless retention is ordered by a Court.

(2) In determining whether or not to temporarily extend the retention period of records, agencies must ensure that the extension of retention is consistent with the requirement contained in 5 U.S.C. 552a (Privacy Act of 1974, as amended) that records concerning individuals are maintained only if relevant and necessary to accomplish a purpose of the agency that is required by law or Executive order.

(b) If the records that are to be temporarily retained beyond their approved destruction date have been transferred to records storage facilities, agencies must notify the facility.

(c) Once the special circumstances that require extended retention of records have elapsed, agencies must destroy the records in accordance with

the NARA-approved disposition instructions.

(d) Agencies must submit an SF 115 to NARA to change schedule provisions on a continuing basis in accordance with § 1225.26 of this subchapter. Agencies may retain records eligible for destruction until the new schedule is approved.

§ 1226.20 How do agencies temporarily extend retention periods?

(a) Agencies must secure NARA written approval to retain records series or systems that are eligible for destruction under NARA-approved schedules except when:

(1) The agency has requested a change in the records schedule in accordance with § 1225.26 of this subchapter, in which case the agency is authorized to retain records eligible for destruction until the new SF 115 is approved;

(2) The records will be needed for less than one year; or

(3) A court order requires retention of the records.

(b) To request an extension, agencies must send a letter to the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1738. Along with a justification, the request must include:

(1) A concise description of the records series for which the extension is requested.

(2) A citation to the agency records schedule or the GRS currently governing disposition of the records;

(3) A statement of the estimated period of time that the records will be required; and

(4) For records in the agency's custody, a statement of the current and proposed physical location of the records.

(c) Agencies must ensure that records in records storage facilities are retained for the duration of the extension.

§ 1226.22 When must agencies transfer permanent records?

All records scheduled as permanent must be transferred to the National Archives of the United States after the

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period specified on the SF 115 in accordance with procedures specified under § 1235.12 of this subchapter.

§ 1226.24 How must agencies destroy temporary records?

(a) *Sale or salvage of unrestricted records*—(1) *Paper records*. Paper records to be destroyed normally must be sold as wastepaper, or otherwise salvaged. All sales must follow the established procedures for the sale of surplus personal property. (See 41 CFR part 101—45, Sale, Abandonment, or Destruction of Personal Property.) The contract for sale must prohibit the resale of all records for use as records or documents.

(2) *Records on electronic and other media*. Records other than paper records (audio, visual, and electronic records on physical media data tapes, disks, and diskettes) may be salvaged and sold in the same manner and under the same conditions as paper records.

(b) *Destruction of unrestricted records*. Unrestricted records that agencies cannot sell or otherwise salvage must be destroyed by burning, pulping, shredding, macerating, or other suitable means authorized by implementing regulations issued under E.O. 12958, as amended or its successor.

(c) *Destruction of classified or otherwise restricted records*. If the records are restricted because they are national security classified or exempted from disclosure by statute, including the Privacy Act, or regulation:

(1) *Paper records*. For paper records, the agency or its wastepaper contractor must definitively destroy the information contained in the records by one of the means specified in paragraph (b) of this section and their destruction must be witnessed either by a Federal employee or, if authorized by the agency, by a contractor employee.

(2) *Electronic records*. Electronic records scheduled for destruction must be disposed of in a manner that ensures protection of any sensitive, proprietary, or national security information. Magnetic recording media previously used for electronic records containing sensitive, proprietary, or national security information must not be reused if the previously recorded in-

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formation can be compromised in any way by reuse of the media.

§ 1226.26 How do agencies donate temporary records?

(a) Agencies must obtain written approval from NARA before donating records eligible for disposal to an appropriate person, organization, institution, corporation, or government (including a foreign government) that has requested them. Records that are not eligible for disposal cannot be donated.

(b) Agencies request the approval of such a donation by sending a letter to the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740–6001, phone number (301) 837–1738. The request must include:

(1) The name of the department or agency, and relevant subdivisions, having custody of the records;

(2) The name and address of the proposed recipient of the records;

(3) A list containing:

(i) Description of the records to be transferred,

(ii) The inclusive dates of the records,

(iii) The SF 115 or GRS and item numbers that authorize destruction of the records;

(4) A statement providing evidence:

(i) That the proposed donation is in the best interests of the Government,

(ii) That the proposed recipient agrees not to sell the records as records or documents, and

(iii) That the donation will be made without cost to the U.S. Government;

(5) A certification that:

(i) The records contain no information the disclosure of which is prohibited by law or contrary to the public interest, and/or

(ii) The records proposed for transfer to a person or commercial business are directly pertinent to the custody or operations of properties acquired from the Government, and/or

(iii) A foreign government desiring the records has an official interest in them.

(c) NARA will determine whether the donation is in the public interest and notify the requesting agency of its decision in writing. If NARA determines

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such a proposed donation is contrary to the public interest, the agency must destroy the records in accordance with the appropriate disposition authority.

PART 1227—GENERAL RECORDS SCHEDULES

Sec.

1227.1 What are the authorities for Part 1227?

1227.2 What definitions apply to this part?

1227.3 What standards are used as guidance for this part?

1227.10 What are General Records Schedules (GRS)?

1227.12 When must agencies apply the GRS?

1227.14 How do I obtain copies of the GRS?

AUTHORITY: 44 U.S.C. 3303a(d).

SOURCE: 74 FR 51014, Oct. 2, 2009, unless otherwise noted.

§ 1227.1 What are the authorities for Part 1227?

The statutory authority for this part is 44 U.S.C. 3303a(d).

§ 1227.2 What definitions apply to this part?

See §1220.18 of this subchapter for definitions of terms used in part 1227.

§ 1227.3 What standards are used as guidance for this part?

These regulations conform with guidance provided in ISO 15489-1:2001, Information and documentation—Records management, paragraphs 9.2 (Determining how long to retain records) and 9.9 (Implementing disposition).

§ 1227.10 What are General Records Schedules (GRS)?

General Records Schedules (GRS) are schedules issued by the Archivist of the United States that authorize, after specified periods of time, the destruction of temporary records or the transfer to the National Archives of the United States of permanent records that are common to several or all agencies.

§ 1227.12 When must agencies apply the GRS?

(a) Agencies apply the disposition instructions of the GRS, as provided in the following table.

When NARA issues a new or revised GRS, and . . .	Then . . .
(1) The new or revised GRS states that the provisions must be followed without exception.	All agencies must follow the disposition instructions of the GRS, regardless of whether or not they have existing schedules.
(2) Your agency does not have an existing schedule for these records..	Your agency must follow the disposition instructions of the GRS. If your agency's needs require a different retention period, then your agency must submit an SF 115 in accordance with 36 CFR part 1225 of this subchapter, and a justification for the deviation.
(3) When your agency has an existing schedule and the new or revised GRS permits use of existing agency-specific schedules.	Your agency may follow the disposition instructions in either the GRS or the existing agency schedule, but it must follow the same instructions throughout the agency and instruct its staff to do so. If your agency chooses to follow its own schedule, then it must notify NARA within 120 days of the issuance of the new or revised GRS.
(4) Your agency does not create or maintain any of the records addressed by that GRS.	No action is required.

(b) Except as provided in the table in paragraph (a), agencies must incorporate in their disposition manual or otherwise disseminate new and revised GRS within 6 months after NARA has issued the GRS Transmittal.

(c) NARA may, at its discretion, apply the provisions of the GRS to records in its legal custody, subject to the provisions of §1235.34 of this subchapter.

§ 1227.14 How do I obtain copies of the GRS?

(a) The GRS and instructions for their use are available online at <http://www.archives.gov/records-mgmt/ardor/records-schedules.html>. They are also available by writing to the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1738.